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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/033,883	12/27/2001	Wen-Fa Yao	JCLA3573	9398
7590	11/19/2004		EXAMINER PUNNOOSE, ROY M	
J.C. Patents, Inc. 4 Venture, Suite 250 Irvine, CA 92618			ART UNIT 2877	PAPER NUMBER

DATE MAILED: 11/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/033,883

Applicant(s)

YAO ET AL.

Examiner

Roy M. Punnoose

Art Unit

2877

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on 03 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 September 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

Art Unit: 2877

## **DETAILED ACTION**

### ***Response to Amendment***

1. Acknowledgement is made of applicant's amendment received on September 03, 2004. However, in view of new prior art discovered, applicant's arguments are moot. The examiner sincerely regrets if this has caused any inconvenience for the applicant.

### ***Drawings***

2. The drawings are objected to because claim 1 states that the driver device receives the driver signal and accordingly drives the scanning processor (assumed to be "scanner device" for examination purposes; see item 1 above). But from the direction of the arrow on the line connecting the scanner device and the driver device in Figure 1, it appears that the scanner device is driving the driver device instead of the driver device driving the scanner device.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 and 3-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki et al (US\_5,231,576).

5. Claims 1, 7, 8 and 10 are rejected because:

Art Unit: 2877

- A. Suzuki et al (Suzuki hereinafter) discloses a scanning analyzer unit for analyzing testing a sample (see col.5, line 29) in a testing support 1 comprising, a scanner device 30b (see col.5, line 39 and Figure 4) for scanning a test support 1 suitable for supporting a reaction of analytes in the sample to achieve a color separation, wherein the scanner device 30b outputs a test signal in response to scanning the testing support 1 after the reaction of the analytes (see abstract), a computing unit 72 coupled to the scanner device 30b (see Figure 2) for receiving and analyzing the test signal, a controller device 76 coupled to the scanner device 30b, said scanning analyzer unit for accurately measuring, analyzing and testing biological samples. However Suzuki does not explicitly disclose that the computing unit outputs a control signal which is directed at a controller device, and said controller device is coupled to a driver device for receiving a driver signal for driving the scanner device for accurately measuring concentrations of analytes in a sample under test.
- B. The examiner takes Official Notice that it is commonly known to one skilled in the art that a computing unit is used for controlling any desired external peripherals, and that (software and hardware) driver devices are used for driving any external components or devices. For example, Suzuki teaches the use of a LED driver 75 to drive the LED light source (see Figure 2).
- C. In view of what is commonly known in the art, it would have been obvious to one of ordinary skills in the art to incorporate a computing unit that outputs a control signal which is directed at a controller device, and said controller device is coupled to a driver

Art Unit: 2877

device for receiving a driver signal for driving the scanner device in an instrument for accurately measuring concentrations of analytes in a sample under test.

6. Claim 3 is rejected for the same reasons of rejection of claim 1, and because, the examiner takes Official Notice that it is commonly known to one skilled in the art that any detected signal, such as from the scanner device in the instant application, is amplified/buffered for providing a reliable and more accurate signal to other connected devices such as an A/D converter.

7. Claim 4 is rejected for the same reasons of rejection of claim 3, and because Suzuki teaches of using an A/D converter (see col.7, lines 51-55) to convert a signal to digital format and transferred to the computing unit 72.

8. Claims 5, 6 and 9 are rejected for the same reasons of rejection of claim 1, and because the examiner takes Official Notice that it is commonly known to one skilled in the art that the use of interface such as RS-232 interface, between a computing unit and any other device is well known to all skilled in the art. It should be noted that the applicant has used "standard" RS-232 interface to qualify the limitation, which is an indication that said interface is "prior art."

9. Several facts have been relied upon from the personal knowledge of the examiner about which the examiner took Official Notice. Applicant must seasonably challenge well known statements and statements based on personal knowledge when they are made. In re Selmi, 156 F.2d 96, 70 USPQ 197 (CCPA 1946); In re Fischer, 125 F.2d 725, 52 USPQ 473 (CCPA 1942). See also In re Boon, 439 F.2d 724, 169 USPQ 231 (CCPA 1971) (a challenge to the taking of judicial notice must contain adequate information or argument to create on its face a reasonable doubt regarding the circumstances justifying the judicial notice). If applicant does not reasonably

Art Unit: 2877

traverse the well-known statement during examination, then the object of the well known statement is taken to be admitted prior art. In re Chevenard, 139 F.2d 71, 60 USPQ 239 (CCPA 1943). A reasonable challenge constitutes a demand for evidence made as soon as practicable during prosecution. Thus, applicant is charged with rebutting the well-known statement in the next reply after the Office action in which the well known statement is made.

***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Roy M. Punnoose** whose telephone number is **571-272-2427**. The examiner can normally be reached on 9:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Gregory J. Toatley, Jr.** can be reached on **571-272-2800 ext.77**. The fax phone number for the organization where this application or proceeding is assigned is **703-872-9306**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**Roy M. Punnoose**  
Patent Examiner  
Art Unit 2877  
November 15, 2004



  
**Gregory J. Toatley, Jr.**  
Supervisory Patent Examiner